



## INDIANA'S NEW SMOKING LAW FREQUENTLY ASKED QUESTIONS – FOR BUSINESSES

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### 1. What does the new state smoking ban require my business to do?

A business that is not exempt from the state law must post required signage, remove indoor ashtrays and other smoking receptacles, and direct any person who is smoking to extinguish the cigarette, cigar, or other lighted tobacco item.

### 2. What signage is needed at the entrance of an establishment?

Signs are required at all public entrances of enclosed public places and places of employment. Signs must read "State Law Prohibits Smoking within 8 Feet of this Entrance" or other similar language. Signs are available for printing at: [www.in.gov/atc](http://www.in.gov/atc).

### 3. Can bars and taverns allow smoking?

Yes, bars and taverns may allow smoking, provided they meet the requirements in [HEA 1149](#) (I.C. 7.1-5-12).

### 4. Is smoking permitted on outdoor patios?

Smoking is permitted on an outdoor patio that is eight feet from all public entrances and where smoke may not enter where smoking is prohibited.

### 5. Can places of employment allow smoking outside?

Yes. Places of employment may allow smoking in areas that are located outside of the structure considered as the place of employment, provided they are eight feet from all public entrances of the establishment.

### 6. What are the requirements for a retail tobacco shop to allow smoking?

A retail tobacco shop must have a valid tobacco sales certificate issued on or before June 30, 2012, and only permit those 18 and older into the establishment. Additionally, tobacco product sales must account for 85% of store's annual gross sales, food and beverages may not be sold for consumption on the premises, and there may not be an area designated for customers to consume food and beverages.

### 7. What are the requirements for hookah and cigar bars to allow smoking?

A hookah bar may only allow persons 21 and older to enter, must hold a beer, liquor, or wine retailer's permit, must limit smoking to cigars or smoking with a water pipe or hookah device, and at least 10% of the business's annual gross income must have been from the sale of cigars, rental of onsite humidors, or sale of loose tobacco for the use in water pipe or hookah device during the

previous calendar year. Additionally, a conspicuous sign must be displayed with the message that cigarette smoking is prohibited.

**8. If a business is located in the owner's private residence, is smoking allowed?**

Yes, only if the employees of the business are the owner and other employees who reside in the private residence. Signage must be posted reading: "WARNING: Smoking Is Allowed in this Establishment" or similar language. Smoking is not allowed in any enclosed area that is used by individuals less than 18 years of age.

**9. What are the requirements for a cigar specialty store to allow smoking?**

A cigar specialty store must hold a valid tobacco sales certificate issued on or before June 30, 2012; the sale of tobacco products and accessories must account for a least 50% of the store's annual gross sales; and a sign must be conspicuously posted saying that cigarette smoking is prohibited. The store must have a separate, enclosed, designated smoking room that is adequately ventilated and prohibit entry of individuals less than 18 years of age. Cigarette smoking is not allowed on the premises of the store. Food and beverages may not be sold for consumption on the premises and an area may not be designated for the consumption of food and beverages.

**10. What are the requirements for a gaming facility to allow smoking?**

The gaming facility must operate under a gambling game license.

**11. Define gaming facilities and surrounding properties that allow smoking?**

Casinos, riverboats, horse-racing facilities, and satellite locations.

- a. A horse-racing facility must be operated under the appropriate alcoholic-beverage permit. Any other permanent structure on land owned or leased that is adjacent to the facility may also allow smoking.
- b. A riverboat must be as defined by Indiana Code. Any other permanent structure that is owned or leased by the owner of the riverboat and located on land adjacent to the dock at which the riverboat is moored or the land which the riverboat is situated may allow smoking.

**12. Is smoking allowed in hotels and motels?**

No.

**13. Our business is located in a local town, city or county with a local ordinance requiring signs to be posted reading: "No Smoking Within 20 Feet." Must we post both the 8-foot and 20-foot signs to be in compliance with these local and state requirements?**

No. Local ordinances may be more restrictive than the state statute. You only need to post the sign required by local ordinance.

**14. The smoking-ban law requires businesses that are exempt from the ban to provide the Alcohol & Tobacco Commission with a statement verifying their exemption. How do we file this statement with the ATC?**

Fraternal clubs and other organizations that meet all of the requirements for an exemption from the state smoking ban may file the Exemption Form found on the ATC's website, [www.in.gov/atc](http://www.in.gov/atc). The form will be available before July 1, 2012, when the law takes effect.

**15. Do individual stores in an enclosed shopping mall need to post no-smoking signs at their entrances?**

No. Signs must be posted at all public entrances to the shopping mall, but need not be posted at each individual store entrance.

**16. Smoking is prohibited within 8 feet of an entrance at an enclosed public place or place of employment. Does this include garage doors and loading bays?**

Yes.

**17. Does my business have to purchase a new labor-law *poster* to put up in our break room?**

No. An employer shall inform each of the employer's employees and prospective employees of the smoking prohibition applying to the place of employment. There is no specific requirement for a labor-law *poster* to be displayed in a break room. Signs are required at all public entrances of enclosed public places and places of employment. Signs must read "State Law Prohibits Smoking within 8 Feet of this Entrance" or other similar language. Signs are available for printing without charge at: [www.in.gov/atc](http://www.in.gov/atc).

**18. What is the penalty for a business owner who violates a provision of the new smoking law?**

A conviction for a violation of the state smoking law in a local court is subject to a fine, court costs, or any other penalty that court imposes. A judgment of up to one thousand dollars (\$1,000) may be entered for a violation constituting a Class B infraction. It is a Class A infraction if the owner, manager, operator, or official has been adjudged to have committed at least three (3) prior unrelated infractions under the state smoking ban. A judgment of up to ten thousand dollars (\$10,000) may be entered for a violation constituting a Class A infraction.

In an action taken against an alcoholic beverage permit holder for an administrative law violation, the permit holder is subject to the penalties provided in the Alcoholic Beverage Code, I.C. Title 7.1, which may include a fine, suspension of the permit, and/or revocation of the permit.

**19. Is a liquor store exempt from the new state smoking ban, since customers must be 21 years of age to enter?**

No. A liquor store is not exempt from the state smoking ban.